

OLCAN III PROPERTIES, LLC
438 N. CRAIN HIGHWAY
GLEN BURNIE, MD 21061

PLAINTIFF

V.

AMERICAN TOWER CORPORATION
116 HUNTINGTON AVE.
11TH FLOOR
BOSTON, MA. 02116
SERVE ADAM SMITH, SENIOR VICE PRESIDENT

DEFENDANT

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE CITY

*

* CASE NO.:

*

* * * * *

COMPLAINT AND REQUEST FOR JURY TRIAL

OLCAN III PROPERTIES, LLC, Plaintiff, by its attorney, Richard J. Hackerman, brings this action against Defendants, and in support of state the following:

1. Plaintiff is a business and owner of property located in Baltimore City, Maryland.
2. Defendant is the current holder of an easement on the property located at 4437-4449 Belair Road, Baltimore City, Maryland 21206, at the location of and with real property owned by the Plaintiff at that address.
3. This action arises based upon that agreement for an easement between the parties.
4. Plaintiff granted an easement to Defendant for the "transmission and reception of any and all wireless communication signals and the construction, maintenance, repair, replacement, improvement, operation and removal of towers, antennas, buildings, fences, gates and related facilities and any related activities and uses...", i.e., a cell phone tower which has been placed on

the top of the building located at the address referenced above.

5. Since January 1, 2021 and thereafter Defendant's use of the easement has caused damage to the Plaintiff's real and personal property which has caused Plaintiff to incur repair costs and to lose rents and profits. Said damages are continuing in nature.

COUNT ONE-BREACH OF CONTRACT

6. Plaintiff incorporates herein the allegations of the preceding paragraphs.

7. Defendant and Plaintiff contracted for the easement and for the upkeep, operation, maintenance and repair.

8. Defendant caused significant damage to the property of the Plaintiff.

9. Defendant breached the contract between the parties by failing to properly maintain the cell phone tower and area supporting the cell phone tower which as a result has damaged Plaintiff's property.

10. Plaintiff has incurred damages in excess of \$75,000.00.

COUNT TWO-NEGLIGENT MISREPRESENTATION

11. Plaintiff incorporates herein the allegations of the preceding paragraphs.

12. Defendant negligently asserted that they would repair, replace, and properly maintain the area of the easement and to not damage Plaintiff's property.

13. Defendant owed a duty of care to not damage Plaintiff's property.

14. Defendant made these assertions with the intention that the Plaintiff would rely on them.

15. Defendant knew that the Plaintiff would rely on the assertions and the contract between the parties, specifically for repairs and upkeep, which if assertions were not true, would cause damage to the property at issue.

16. Plaintiff justifiably relied on Defendant's promises that it would repair, replace and maintain the area of the easement.

17. Plaintiff incurred damages in excess of \$75,000.00.

COUNT THREE-NEGLIGENCE

18. Plaintiff incorporates herein the allegations of the preceding paragraphs.

19. Defendant has a duty to care of reasonable and adequate maintenance and repair for the property they were using for its cell phone tower.

20. Defendant breached that duty by negligently and recklessly causing damage to the property of the Plaintiff.

21. Damages to the Plaintiff's property were caused by the actions and omissions of the Defendant.

22. Plaintiff suffered damages in excess of \$75,000.00.

COUNT FOUR-PRIVATE ACTION FOR PUBLIC NUISANCE

23. Plaintiff incorporates herein the allegations of the preceding paragraphs.

24. Defendant's damage to Plaintiff's real property is an invasion of Plaintiff's use and enjoyment of his property. Defendant took actions with its equipment and its lack of maintenance and care of Plaintiff's property which has caused substantial and unreasonable harm to Plaintiff.

25. Defendant's actions are intentional and unreasonable.

26. Defendant's actions are unintentional but avoidable by simply using ordinary care to protect Plaintiff's property and not acting negligently and recklessly.

27. Plaintiff suffered the loss of rents and the costs of repairs, a harm of a kind different from that suffered by other members of the general public.

28. Defendant's conduct constitutes a nuisance and the injuries to the Plaintiff entitle Plaintiff to damages.

29. Plaintiff has suffered damages in excess of \$75,000.00.

Wherefore the Plaintiff claims the following:

A. Compensatory damages in excess of \$75,000.00 against the Defendant.

B. Its' reasonable counsel fees.

C. For such other and further relief as is necessary.

/s/ Richard J. Hackerman

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Attorney for Plaintiff
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CERTIFICATE OF COMPLIANCE

I hereby certify that the attached submission does not contain any restricted information, or if it does contain restricted information, a redacted submission has been filed contemporaneously pursuant to Maryland Rule 20-201(f)(2).

/s/ Richard J. Hackerman

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REQUEST FOR JURY TRIAL

MR. CLERK:

The Plaintiff requests that this matter be tried by jury.

/s/ Richard J. Hackerman

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